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02-20-03

3637

TO: PATENT OFFICE

FAX 703-872-9326

ATTENTION: WINNIE YIP, examiner

APPLICATION NO. 09/927/029

ART UNIT 3637

APPLICANT: ANNE TROY COUNTRYMAN

PATENT APPLICATION FOR: REFLECTIVE DECORATIVE CANE

RESPONSIVE COMMUNICATION FILED ON FEB. 17, 2003

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AMENDMENT IN THE SUBSTITUTION SPECIFICATION FILED UNDER 37 CFR
1.125 (b)

PATENT APPLICATION FOR: REFLECTIVE DECORATIVE CANE

INVENTOR: ANNE TROY COUNTRYMAN

APPLICATION NO: 09, 927,029

The substitute specification contains no new matter. The ideas of the previous version of
the APPLICATION are the same but are developed in more depth so that it teaches how
to make and use the invention.

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Office Action Summary

Application No.

09/927,029

Applicant(s)

TROY, ANNE

Examiner

Winnie Yip

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

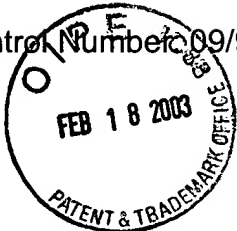
Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

This is a first office action for application Serial No. 09/927,029 filed January 17, 2002.

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81 in reply to this Office action. The drawing must show every feature of the invention specified in the claims and the drawing should include certain reference signs mentioned in the description. 37 CFR 1.84(f) states, "Reference signs not mentioned in the description shall not appear in the drawing and vice versa." Failure to timely submit the proposed drawing correction will result in the abandonment of the application. No new matter may be introduced in the required drawing.

Specification

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use. The Rules of Practice and The code of Federal regulations. It is the Applicant's responsibility to bring his application into compliance. The Code of Federal Regulations, for example, requires that the patent be a very structured document and must include the following elements:

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.

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- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

3. ~~The abstract of the disclosure is objected to because it less than 50 words. Correction is required. See MPEP § 608.01(b).~~


4. ~~The disclosure is objected to because of it does not contain sections of (g) "Brief Description of the Several Views of the Drawings" and (h) "Detailed Description of the Invention" as described set forth above.~~ A description of the preferred embodiment(s) of the invention is required in 37 CFR 1.71. The specification should be as short and specific as is necessary to describe the invention adequately and accurately. The specification must include all reference signs shown in the drawings. 37 CFR 1.84(f) states, "Reference signs not mentioned in the description shall not appear in the drawing and vice versa." Appropriate correction is required.

Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The specification (disclosure) is objected to under 35 U.S.C. 112, first paragraph, as failing to provide an adequate written description of the invention and failing to adequately teach how to make and/or use the invention. i.e. failing to provide an enabling disclosure. The specification fails to adequately describe how the claimed invention, a walking cane, being made and being used. Regard to this application, for example, it is not clear whether or not the shaft of the cane is entirely made of transparent material. What "PETG" refers to? Where is the location of the "reflective foil or reflective garland" inside of the shaft? No new matter may be introduced in the required specification.

7. A substitute specification exclusive the claim is required pursuant to 37 CFR 1.125(a) because it does not contain sections of (g) and (h) as described set forth above. Notice, changing of drawings will cause changing of specification correspondingly. A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be
- 

made via the substitute specification relative to the specification at the time the substitute specification is filed.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. ~~Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.~~ The claim is generally narrative and indefinite, failing to conform with current U.S. practice. The claim lacks a scope of claimed invention.

While the claims are the most important part of the patent from the inventor's point of view the description is the most important from the public's point of view. The description according to ~~the patent laws must describe the invention in such clear, concise and exact terms, as to allow any person skilled in the art to make and use the applicant's invention.~~ See 37 C.F.R. 1.75(d)(1) and M.P.E.P. 608.01(1) which requires that terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. Notice the formats of the references as recited.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. ~~Claim 1, as better understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Sargent (US Patent No. 4,013,881).~~

Sargent shows and discloses a cane comprising: an elongated shaft (17) having a transparent portion (16), a string reflector unit (12, 21) inherently including reflective foil or reflective garland being disposed inside of the transparent portion of the shaft, a slightly hook curved end (1) at the upper end of the shaft, and a resilient friction tip (15) mounted at a lower terminal end of the shaft.

12. Claim 1, as better understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Hunnicutt, Jr. et al. (US Patent No. 5,351,704).

Hunnicutt, Jr. et al. show and disclose a cane (10) comprising: an elongated shaft (20) having a transparent portion (22), reflectors (55, 98A-E) inherently printed with a reflective foil disposed inside of the transparent portion of the shaft, a slightly hook curved end (16) at the upper end of the shaft, and a resilient friction tip (76)) mounted at a lower terminal end of the shaft.

Claim Rejections - 35 USC § 103

13. ~~The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:~~

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. ~~Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois, (U.S. Patent No. 4,967,322).~~

DuBois teaches a stick (10) comprising a transparent shaft (18) which includes a reflective foil inside of the shaft for reflecting light, a tubular portion (14) mounted at an upper end of the shaft providing a handle of the stick, and a resilient friction tip (16) mounted at a lower terminal end of the shaft. Although DuBois fails to specify the handle (4) at the upper end of the transparent shaft having a slightly hook curved shape as claimed, it is common engineering practice to provide a stick having a handle portion at the upper end of the shaft with variety alternative shapes to comfort a user's hand, therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in art to provide the stick of DuBois having a slightly hook curved shaped end for comforting a user's hand with desirable appearance.

Citations

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schock '701, Greene '650, Caustin et al. '519, Winn et al. '116, Wipperfurth '947, European Patent N. 371,913, and French Patent No. 2,549,353 teach various sticks having transparent shaft with reflector inside as similar to the claimed invention.

Conclusion

16. If applicant continues to prosecute the application, Applicant should submit a complete response to the office action including:

a. An amendment under separated headings of "In the specification", "In the claims", and "Remarks":

b. Under headings of "In the specification" or "In the claims":

~~A substitute specification is required.~~ The substitute specification must be accompanied by a statement that it contains no new matter that was not disclosed in the application as originally filed. Such statement must be a verified statement if made by a person not registered to practice before the Office.

~~To properly amending the specification and the claims, applicant may rewrite new claims and cancel the old claim.~~ Applicant is reminded that the original numbering of the claims must be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When claims are added, except when presented in accordance with 37 CFR 1.121(b), they must be renumbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

c. ~~After amendment to claims or specification, Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references that are applied against the claims, explaining how the claims avoid the references or distinguish from them.~~

17. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence

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concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on Feb. 18, 2003
(Date)

Typed or printed name of person signing this certificate:

Anne Troy Countryman

Signature: Anne Troy Countryman

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

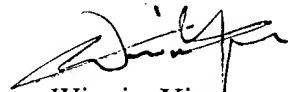
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip
Examiner
Art Unit 3637

wsy
November 14, 2002